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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA17-66

Filed: 15 August 2017

Iredell County, No. 15 CRS 53352

STATE OF NORTH CAROLINA

v.

ARTHUR F. GRAHAM

Appeal by defendant from judgment entered 31 August 2016 by Judge Mark E. Klass in Iredell County Superior Court. Heard in the Court of Appeals 31 July 2017.

Attorney General Joshua H. Stein, by Assistant Attorney General Ann Stone, for the State.

Appellate Defender Glenn Gerding, by Assistant Appellate Defender Emily H. Davis, for defendant-appellant.

CALABRIA, Judge.

Arthur F. Graham (“defendant”) appeals from a judgment entered upon a jury verdict finding him guilty of failure to report a new address as a sex offender,

pursuant to N.C. Gen. Stat. § 14-208.11(a)(2) (2015). After careful review, we conclude that defendant received a fair trial, free from error.

I. Background

On 4 March 2015, defendant registered as a sex offender with the Iredell County Sheriff's Office and provided his address at his residence in Statesville, North Carolina. A few days later, Deputy David Price ("Deputy Price") visited defendant's listed address to confirm that he was living there. During the ensuing months, Deputy Price would periodically verify that defendant was still living at his reported address.

On 16 June 2015, Deputy Price visited defendant's residence. When he knocked on the door, there was no answer. There was a bees' nest in the doorway; the grass was about knee-high; and defendant's dog, which had previously been tied up outside, was no longer present. Deputy Price also saw that the electric meter had a red notice from Duke Power indicating that it had been disconnected. He contacted defendant's landlord, who said that defendant had not paid rent for the previous two months. The landlord and a maintenance man provided Deputy Price with access to the interior of the residence. Inside, he observed rotting food, dirty dishes, piles of clothes on the floor, and other personal belongings scattered throughout the house. However, he did not see any furniture.

On 19 June 2015, Deputy Price obtained a warrant to arrest defendant for failure to report a new address as a sex offender, pursuant to N.C. Gen. Stat. § 14-208.11(a)(2). Defendant was subsequently indicted for the offense on 7 December 2015. Beginning 30 August 2016, defendant was tried by a jury in Iredell County Superior Court.

At trial, Deputy Price testified, without objection, that at the time he went to defendant's residence on 16 June 2015, defendant had an outstanding warrant for domestic violence. Defendant's landlord also testified that defendant last paid rent on 3 April 2015 and that he had not seen defendant since that date. In addition, the property's maintenance man testified that he noticed the red electricity disconnection tag on the power meter in April 2015.

On 31 August 2016, the jury returned a verdict finding defendant guilty. The trial court sentenced defendant to an active sentence of 20 to 33 months in the custody of the North Carolina Division of Adult Correction. Defendant appeals.

II. Analysis

Defendant's sole argument is that the trial court committed plain error by allowing Deputy Price to testify that defendant had an outstanding warrant for domestic violence. We disagree.

Defendant acknowledges that he failed to object to the challenged testimony at trial. Accordingly, we review this argument only for plain error. Plain error arises

STATE V. GRAHAM

Opinion of the Court

when the error is “so basic, so prejudicial, so lacking in its elements that justice cannot have been done[.]” *State v. Odom*, 307 N.C. 655, 660, 300 S.E.2d 375, 378 (1983) (citation and quotation marks omitted). “Under the plain error rule, defendant must convince this Court not only that there was error, but that absent the error, the jury probably would have reached a different result.” *State v. Jordan*, 333 N.C. 431, 440, 426 S.E.2d 692, 697 (1993).

In the instant case, defendant cannot show that, but for the trial court’s alleged error, the jury probably would have reached a different verdict. There was substantial evidence that defendant had moved away from his residence long before Deputy Price performed his address verification on 16 June 2015. On that date, the grass was knee-high, there was a bees’ nest built into the front doorway, and defendant’s dog was no longer in the yard. Electricity to the residence was disconnected and had been since at least April, according to the maintenance man. Defendant had not paid rent since the beginning of April, and the house’s interior was littered with rotten food, dirty dishes, and piles of clothes and other personal belongings; however, there was no furniture. This was more than enough evidence to show that defendant had moved away from his residence without notifying the Sheriff’s Office within three business days, as required by N.C. Gen. Stat. § 14-208.9(a).

STATE V. GRAHAM

Opinion of the Court

Since defendant has failed to show that the trial court committed plain error, he is not entitled to a new trial. We find no error in the trial court's judgment.

NO ERROR.

Judges TYSON and MURPHY concur.

Report per Rule 30(e).